Secrt. H-27—100,000—21-5-48.

HOME (1949) Department.

LETTER NO. SERIES.

P. 9 (E)

Letter No.
G.O. No. 2789

Dated 7-7-1949

[Despatch Abstract.]

Law officers - Additional - Government Pleaders' - Enhancement of retainer fee, etc - Resolutions.

From

M. Venkataswamy Reddiar,
The President,
Of the Government Pleaders' Association, (Madras)
Cuddalore,
South Arcot District.

To

The Honourable Premier,
The Government of Madras,
Madras.

Respected Sir,

On behlaf of the "Government Pleaders' Association Madras," I beg to forward herewith the following resolutions which were passed by the "Government Pleaders' Association, Madras," on 24-7-1948, under the president-ship of the Hounourable Advocate-General, Madras, for your kind and sympathetic consideration.

Resolutions passed by the Association.

1. The Association is of the opinion, that as the work of the Government Pleaders in the District Centres involves considerable labour, industry, and time, the retainer's fee of the Government Pleaders in the District Centres may be fixed at Rs.300/-, irrespective of the fact, that, in some District Centres, the incumbent is also the Public Prosecutor.

2. In view of the fact that the Government Pleaders in the District Centres have to maintain Account books, to send periodical returns to the Government, and to attend to considerable correspondence, daily, with various departments of the Government, the Association is of opinion, and urges, that a clerk knowing Typing work, and a peon, have to be provided for the Government Pleaders in the Districts, in order to enable quick discharge of the duties of the Government Pleaders.

3. The Association is of opinion that the necessary stationary for correspondence and for the proceedings of the Government may be provded for to the Government Pleaders in the Districts, and the expenses for postage etc. may be paid to the Government Pleaders.

4. The Association resolves that the Government may be requested to provde the Government Pleaders in the District Centres with the Government Manuals, Boards' Standing Orders with correction slips, Bills and Acts of the Madras Legislature, and copies of Rules and Regulations, framed by the Government, and by the High Court.

5. The Association is of opinion that the authorities should consider the claims of the members of the mofussal-bar for recruitment of the District Judges Law Officers in Madras, High Court-Judges, and selection of members of the Rules Committee of the High Court.

6. The Association is of opinion, and urges, that, in suits involving a value of Rs.100/-and upwards, the Government Pleaders may be allowed to engage a junior along with him, on a separate fee, as per the rules relating to the fees payable to legal practitioners.

2. The Association resolves that a deputation consisting of two or more members of the Assciation may wait upon the Chief Justice, of the Madras High Court, the Premier, and the Minister for Law, of the Madras Government, to place the resolutions of the Association

before them, for sympathetic consideration at their hands.

3. In accordance with the last resolution, some of the members of the Association, including the Presidnet and the Secretary, desire to wait in deputation upon you, in order to place the facts and data, in connection with the above-said resolutions No. 1 to 5. I therefore request that you may be kind enough, to fix a date for receiving the deputation of the members of the Association and I shall be grateful if you and the Minister for law together can see the deputation.

I am,
Respected Sir Your most
Sincerely,

K. Venkataramani

Cuddalore,
13-8-48.

MEMORANDUM SUBMITTED BY THE GOVERNMENT PLEADERS' ASSOCIATION, MADRAS TO THE HONOURABLE CHIEF JUSTICE OF THE HIGH COURT AT MADRAS

The recruitment of the Judges of the High Courts has been, hitherto, ordinarily made from among the Senior District Judges, and leading practising Lawyers in the Metropolis. There has been an agitation for some years past among the practising lawyers in the mofussil, in the District Centres, that their claims should also be considered by the authorities when filling up the vacant seats in the High Court.

2. There have been previous instances, in which practising lawyers in centres, other than the metropolis have been appointed as Judges of the High Court. The Hon'ble Justice Sir Abdul Rahman was practising in Delhi, when he was appointed as a Judge of the High Court of Madras.

3. It has been sometimes suggested, that the practising lawyers in the District centres may not be conversent with the practice and procedure, in the High Courts. The civilian District Judges, who are appointed as the Judges of the High Court, have not practised in the High Court; nor have they practised in other Courts of Justice. They have been serving in the earlier stages, as Executive officers. Subsequently, they have been occupying the posts of Districts Judges in the mofussil stations. They have been famaliar, only with the practice and procedure in mofusail courts. It cannot be said that the practising lawyers in the mofussil are not familiar with the practice and procedure in the High Court, as they are also familiar with the rules on the Original side as well as on the Appellate Side of the High Court. In substance, the practice both in the mofussil Courts, and in the High Court, is practically the same. In any event, the knowledge of the mofussil lawyers about the practice and procedure in the High Court is far higher than that of the Civilian District Judges who are appointed as Judges of the High Court.

4. In fact, the practising lawyers in the District Centres are in a better position than the Civilian District Judges. The leading practising lawyers in the District Centres some times go to the metropolis, in order to give instructions to the lawyers in the metropolis. Thereby they become familiar with the practice and procedure in the High Court. Further, the leading practising lawyers in the District Centres very often prepare the grounds of appeal, and notes for arguments, for second appeal, first appeals, Revision Petitions, etc. on behalf of their clients, with a view of being helpful to their clients, as well as to the lawyers in the metropolis who file the appeals in the High Court.

5. It may be suggested that the want of actual practice, like lawyers, before courts of Law, in respect of Civilian District Judges is made up by their experience in writing judgements, in cases coming up for decision before them, and that the mofussil lawyers do not have this advantage. The leading practising lawyers in the mofussil very often give opinions in writing, on matters, on which they are consulted, which often include complicated questions of law, and of facts. The opinions are, practically, in the nature of findings, on the points, which are discussed by them.

6. In recent years, especially after the commencement of the Second World War, there has been considerable increase of work of the Government Pleaders in the District Centres. The various Departments of the Government on account of the innumerable Acts, Ordinances, Rules and Regulations, passed from time to

time, had to seek the advice of Government Pleaders in the District Centres for quick and immediate disposal of their files. The Government Pleaders in District Centres have been giving opinions on a large scale during the last ten years. The opinions sometimes used to cover a large number of pages, on account of the discussion of matters in an understandable manner, to the Officers of the - Departments. The said opinions virtually amount to findings on various points, which arose for decision in each case. They practically bear comparison with the Judgments in Courts of Law.

7. The Government Pleaders in the District Centres have to prepare the plaints, the written statements, and other pleadings, on behalf of the Government, in matters in which they have to appear for the Government in the District Courts, and in the Sub-Courts. They have also to prepare the pleadings for cases coming up in the Munsiff's Courts on behlaf of the Government. Further, they have to prepare the grounds of appeal, for Second Appeals, and for First appeals, on behalf of the Government, for the use of the Government Pleader or the Advocate General at Madras. Moreover, they have to give opinions on the merits of the Second Appeals, and First Appeals sought to be filled, on behalf of the Government, in the High Courts.

8. In some major Districts, like Trichinopoly, South Arcot, Coimbatore, Madura, etc., the Government Pleaders have to give opinions, on a considerable scale, to various departments. Sometimes, they have to give about half a dozen opinions daily.

9. An experienced Government Pleader who has been doing Government work for a number of years would have given innumerable opinions to the various departments. There are cases, in which, on account of their ability and efficiency, some Government Pleader have been in office, for six years, or nine years, or even more. The experience, gained by such Government Pleaders, in connection with Government work, and in connection with their other private work, would be a good qualification for them, when the claims of mofussil lawyers for the posts of High Court claims of mofussil lawyers for the posts of High Court Judges are considered.

10. It is by mere accident, that some able lawyers choose the Metropolis, and some equally able lawyers - choose the mofussil centres, for their practice. It often happens, that eminent lawyers are able to command good practice in the mofussil at a far earlier period, then what happens in the metropolis. Some mofussil centres, as Madura and Coimbatore, having flourishing Industrial concerns, are more paying than the metropolis. The mofussil bar in Madras Presidency can - boast of outstanding Lawyers, as Dr. C.Vijayaraghavachariar of Salem, and Dr.C.Rajagopalachariar of Salem, the present Governor-General.

11. The lawyers in the mofussil are in a better position, in the conduct of original cases, including criminal matters and equally good inhandling appeal cases. The distinction between the leading lawyers in the metropolis, and the leading lawyers in the mofussil is therefore - neither real nor substantial. Given equal opportunities, the leading lawyers in the mofussil will easily acquit themselves ad Judges of the High Court with distinction.

12. The plea on behalf of the mofussil bar has been urged not on anyother consideration than that of merit and fair distribution among the members of the bar, two thirds of whom practice in the mofussil. The recruitment of the members from the mofussil bar will be conducive to the prestige and respect of the unification of the bar. It will be fair and equitable to all the members of the bar and it will avoid over-crowding in the metropolis.

13. The number of the practitioners in the mofussil is nearly twice the number of lawyers in the metropolis. It is therefore a modest claim, on behalf of the mofussil bar, that at least two of the seats in the High Court Bench may be filled up from among the mofussil bar.

14. The request for the selection of at least two leading lawyers from the mofussil bar for appointment to the High Court Bench may therefore be sympathatically ~~considered~~ Considered by the authorities.

Sd.M.Venkataswamy Reddi,
President,
Government Pleaders'
Association 11-9-1948.

/True Copy/

VERY URGENT.

HOME DEPARTMENT.

ENDT.NO.80156-F/48-1 dated 5-1-1949.

Law officers - Government Pleaders - Enhancement of retainer and betterment of their conditions - Resolutions passed by the Government Pleader's Association.

A copy of a letter dated 13-8-1948 from the President of the Government Pleaders' Association, Madras, is forwarded to the Board of Revenue Madras for urgent remarks on the resolutions contained in it.

Sd.....
5-1-1949.

To
The Board of Revenue,
Chepauk, Madras.
(with a copy of page
1-5 cf.as edited).

(R.D 1-2-1949)

/True Copy/

REVENUE DEPARTMENT.
SUBJECT.

LAW OFFICERS - Government Pleaders - Enhancement of retainer and betterment of their conditions - Resolutions by the Government Pleaders Association - Remarks - Submitted.

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L.DIS.A.129/49.

Station:Madras. dated 2-2-1949.

From

K.N. Anantaraman Esq., I.C.S.,
Secretary, Board of Revenue.

W.R.S. Sattianathan Esq., ICS., Commissioner of Land Revenue and Commercial Taxes.

Read: From the Government, Endorsement No.80156/F/48-1d/5--1--49.

L.Dis.

The Board submits the following remarks on the resolutions contained in the letter dated 13-8-48 from the President of the Government Pleader's Association forwarded with the Government endorsement cited above:-

Resolution:1 The Government Pleader's Association has requested that the retainer's fee of the Government Pleaders may be raised to Rs.300/- per mensem irrespective of the fact, that he is a Government Pleader or Public Prosecutor or both. Now according to G.O.No.1114, Home, dated 11-4-1946, as modified in G.O.Ms. No.1736, Home, dated 7-5-1948, when both the office are combined, the retaining fee is Rs.100/- per mensem and if the officers are separate, Rs.75 per mensem for a Government Pleader, and Rs.1000/- per annum for a Public Prosecutor. As these fees were fixed only recently on the representation made by the Public Prosecutor's Association, the Board considers that it is two soon to revise them.

Resolution 2: The Board considers that the Association's request for a clerk knowing typing work and a peon for each Government Pleader is not necessary.

Resolution 3: Regarding the request for provision of stationery and payment of postal charges, the Board invites the attention of Government to G.O.115 Home, dated 8-1-1941. According to this G.O. Pleaders doing Government work are not eligible for any postal charges incurred by them in addition to the fees paid for the conduct of cases. The Board would also invite the attention of the Government to their memo 10085/48-1 Home, dated 27-12-1948, in which they have negatived the request for postal charges to the Pleader doing Government work at Ariyalur. The Government Pleader's also are not eligible for charges incurred by them on stationery and clercal work as per B.S.O.97(6) as amended by correction slip No.180 dated 30-9-1941. The Board does not therefore recommend this request.

Resolution 4: The Board considers that it is not necessary that the Government Pleaders should be supplied with the Government Manuals, B.S.O's Bills and Acts of the Madras Legislature, these are available at the respective offices of the Collects or Revenue Divisional Officer, and they can be easily referred to by the Government Pleaders.

Resolution No.5: Rule 33 of the "Legal Practitioners fees"

already provides for the payment of an additional one - third regulation fee for junior engaged with a senior in a suit. the value of which exceeds Rs.1,000/-. When these rules, were amended by the High Court in 1947, this Rule 33 was not amended. The Board therefore considers that this request also does not deserve any consideration.

Sd....
For Secretary.

To
The Secretary to Government, Home department.

Copy to Stock file.

/True Copy/

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HOME DEPARTMENT.

Letter Ms.No.2789.dated 7-7-1949.

To

The President,
Government Pleaders' Association, Madras,
Cuddalore, South Arcot District.
(with encls).

Sir,

Law ~~Lw~~ Officers - Mufassal - Government Pleaders - Enhancement of retainer fee,etc - Resolutions.
Ref:Your Letter dated 13-8-1948.

I am directed to say that the Government have considered the resolutions passed by the Government Pleaders Association, Madras on 24-7-1948. As regards resolutions No. 1 and 3, the Government Pleaders in the mufassal where the posts of Government Pleader and Public Prosecutor are separate, should be increased to Rs.1,000/- per annum, so as to cover expenses on stationery, etc and they have authorised Collectors to draw on contingent bills service stamps required for the use of Government Pleaders in the mufassal. Orders have been issued accordingly in G.O.Ms.No.2794 Home dated 7-7-1949 and No.2795 Home, dated 7-7-1949.

2. As regards the request of the Association that the claims of the members of the Bar in the mufassal may be considered for recruitment of District Judges, High Court Judges, and Law Officers in the Madras City, I am to say that the Government would make no distinction, such as City and Mufassal Bar, in the matter of recruitment to these posts. The appointment of members of the Rule Committee is a matter for the Hon'ble the Chief Justice, High Court, Madras the Association may move him in the matter.

3. With regard to resolutions Nos. 2, 4 and 6, the Government regret that they are unable to accept the suggestions contained therein.

Sd.. 21/6/1949.

Copy to the Hon'ble the Chief Justice,
High Court, Madras (with a copy of page 1-5-c.f)

Copy to the Board of Revenue, Chepauk, Madras.
Copy for Stock File.

/True Copy/

Superintendent
~~OFFICE ASSISTANT~~.
MADRAS RECORD OFFICE.

KP/31/12/-.

31/12/53

31/12

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